



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**GREGORY TUROCY
AMIN & TUROCY, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST 9TH STREET
CLEVELAND OH 44114**

COPY MAILED

JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Roland Horres et al	:	
Application No. 09/914,241	:	DECISION ON PETITION
Filed: December 13, 2001	:	
Attorney Docket No. 49276-262679	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an RCE and an amendment, (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay.

Since this application was abandoned for failure to timely reply to the Final Rejection of February 27, 2006 within the extendible six month period provided therefor, the Examiner had no procedural authority with respect to the abandoned application. See **Lorenz v. Finkl**, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition reviving the application. Nevertheless, in view of this decision on petition, the RCE is now considered a proper filing and the actions of the examiner taken thereafter are hereby ratified.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$510 extension of time submitted with the petition on September 6, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3738.

A handwritten signature in black ink, reading "Karen Creasy". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Karen Creasy
Petitions Examiner
Office of Petitions